

Commercial Motor Vehicle Enforcement Quarterly

August 2007



Captain's Corner

Captain Robert R. Powers, Jr.

In the last issue (April 2007) of the CMV Enforcement Quarterly I announced the winners of the 2006 MACP Awards for Excellence in Commercial Vehicle Safety. I also announced that the application forms for the 2007 Award Competition can be downloaded from the MACP website: www.michiganpolicechiefs.org.

I now want to announce a very important change to this awards program. Due to the current state budget situation, we will no longer be able to grant the \$6,000 equipment awards to the winning agencies. For 2007, winners will still be honored at the MACP Awards Banquet in February 2008 and will receive a very handsome plaque to commemorate their agency's accomplishments in promoting commercial vehicle safety in their community.

It is not known at this time whether we will be able to resume the equipment grants in the future. Regardless, I hope that all Michigan law enforcement agencies who engage in commercial vehicle enforcement will consider submitting a nomination for this prestigious award.

I have one more announcement to make regarding the Awards for Excellence in Commercial Vehicle Safety. For the first time this year, the 2006 MACP Award winners were automatically submitted for the International Association of Chiefs of Police (IACP) Award for Excellence in Commercial Vehicle Safety. I am very pleased to announce that the Dearborn Police Department was selected as a winner of the IACP Award. Please join me in congratulating Dearborn Police Department for the on going commitment to excellence in promoting commercial vehicle safety through education and enforcement.

I have been appointed by Federal Motor Carrier Safety Administration, Administrator John Hill, to serve a two-year term on the newly created Federal Motor Carrier Advisory Committee. This 15 member committee will provide advice and recommendations to Administrator Hill on various programs and policies related to commercial vehicle safety. My appointment to this committee is significant because it affords me the opportunity to represent the interests of law enforcement at both the state and local levels. If you have any ideas or suggestions on new initiatives or improvements to existing programs that can enhance commercial vehicle safety, I encourage you to convey them to me by e-mail at Powersr@michigan.gov.

I wish you all a safe, enjoyable, and fruitful summer!

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Inspections

New Regulations

FMCSR Section Rescinded

The USDOT/Federal Motor Carrier Safety Administration (FMCSA) issued a final ruling on auxiliary lamps.

As of July 11, 2007, the FMCSA rescinded Section 393.11(d) of the Federal Motor Carrier Safety Regulations (FMCSR) because it was inconsistent with previous National Highway Traffic Safety Administration (NHTSA) Federal Motor Vehicle Safety Standard (FMVSS) guidance. FMCSA ruled trucks and trailers configured with auxiliary lamps meeting the conditions outlined in NHTSA's July 2005 interpretation letter are considered by FMCSA as fully compliant with the FMCSR.

The NHTSA's July 2005 interpretation letter referenced by FMCSA stated: "NHTSA concluded that positioning auxiliary lamps at a distance at least twice the distance that separates each lamp in the required three-lamp cluster provides sufficient separation not to impair the effectiveness of the three-lamp cluster." Essentially, auxiliary lamps are legal provided they are twice the distance that separates them.

FMCSR Sections Added

The USDOT/FMCSA issued a ruling amending Part 390 of the FMCSRs. The amendment adds an exception in Section 390.3 General Applicability under paragraph (f)(7). The exception is for the applicability of the entire FMCSRs for the *transportation of propane winter heating fuel* or a driver of a motor vehicle used to respond to a *pipeline emergency*, if such regulations would prevent the driver from responding to an emergency requiring immediate response.

The amendment also adds the definition of an emergency requiring immediate response in Section 390.5, definitions. The definition of an emergency condition requiring immediate response is a condition "if left unattended is reasonably likely to result in immediate serious bodily harm, death or substantial property damage."

In relation to the *transportation of propane winter heating fuels*, examples of conditions requiring immediate responses include the detection of gas odor, the activation of carbon monoxide alarms, the detection of carbon monoxide poisoning, and any real or suspected damage to a propane gas system following a severe storm or flooding. A *pipeline emergency* may include an indication of an abnormal pressure event, leak, release or rupture. The examples given are not to be considered all inclusive and only serve as guidelines to ensure the appropriate application of the exemptions.

An "emergency condition requiring immediate response" does not include requests to refill empty gas tanks.

The USDOT/FMCSA has also issued an amendment to Part 395 of the FMCSRs. Section 395.1(n) provides an exemption to the hours of service requirements for drivers of utility service vehicles. The exemption to the hours of service is given to a driver who is operating a utility service vehicle as defined in Section 395.2.

Section 395.2 defines a utility service vehicle as any commercial motor vehicle used in the repairing, maintaining, or operating any structures or any other physical facilities necessary for the ultimate delivery of public utility services. The utility services included in the definition are electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service. The delivery of utilities includes the travel or movement to, from, upon, or between activity sites with vehicles that are required to complete the delivery. The public utility may lease, rent or own the vehicles used to complete the work.

Size and Weight

Width of Vehicles

Most vehicles and loads on Michigan highways are legal. However, the over width vehicles and loads encountered on Michigan highways cause excessive traffic flow problems and pose safety concerns to the motoring public. It is our job as law enforcement officers to ensure vehicles and loads operate within the established size guidelines of Section 257.717. It is important for all officers to understand maximum allowable widths and how to measure vehicles and loads to enforce Section 257.717 and Section 257.718.

Officers are reminded to utilize the current MDOT Truck Operator's Map and county maps to find the restrictions on width of vehicles on specific roadways in their enforcement areas. The table below illustrates vehicle types and their maximum allowable widths for both normal routes and designated routes. The route types are determined by state and local transportation officials and are colored coded and described on the MDOT Truck Operator's Map.

VEHICLE TYPE		NORMAL	DESIGNATED
All vehicles except trailers and semi-trailers		96" (8')	102" (8'6")
Trailers and semi-trailers		102" (8'6")	102" (8'6")
Concrete pipe, agricultural products, logs or pulpwood		108" (9')	108" (9')
Vehicles with pneumatic tires		102" (8'6") (outside)	102" (8'6") (outside)
Buses, truck campers, trailer coaches, motor homes		102" (8'6") *see note	102" (8'6") *see note
Roller Canopy Trailer		108" (9') incl. securement device	108" (9') incl. securement device
Implements of Husbandry	No limit during daylight hours: must minimize interruption of traffic flow. May not be operated left of center during night hours or reduced visibility weather.		
Passenger Vehicles	No overhang on left side of vehicle and 6" overhang from the fender line on the right side of the vehicle as outlined in Section 257.718.		



* An appurtenance of a trailer coach, a truck camper, or a motor home that extends not more than 6 inches beyond the total outside body width is not a violation of this section.

An appurtenance may include, but is not limited to an awning, window frames, or securement points used to attach the camper to the truck.

The overall width discussed in this section involves the permanently mounted body parts of a vehicle measured from the outermost point on one side to the outermost point on the other side of the vehicle.

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96"

Measurement of the vehicle is made from the outermost points of the vehicle, not including the mirrors as illustrated in the photo.



108"

Measurement of the load is made at the outermost points of the load as illustrated in the photo.

Section 257.717 Exceptions

- As with other Act 300 Sections there are exceptions for implements of husbandry. The exception allows an implement of husbandry regardless of width to be driven on the roadway and operated left of center provided the driver follows the guidelines established for safe operation in Section 257.639. Officers are reminded that once an implement is loaded on a trailer it loses all exceptions as an implement and is considered a load.
- A vehicle and or load shall not extend beyond the center line of a state trunk line highway except when authorized by law. If the width of the vehicle or load makes it impossible to stay to the right of the center line, a permit may be obtained under Section 257.725.
- Vehicle manufacturers may be issued a special permit under 257.725 to operate over width provided they meet all of the requirements set forth in Section 257.717(8).

Vehicle Code

Work Zone Enforcement and Government Vehicles

Recent questions have prompted a discussion of work zone enforcement involving commercial motor vehicles owned by municipalities and their drivers. In this issue of the CMV Quarterly we will discuss work zone enforcement and the exemptions that apply. We will also discuss exemptions applicable to governmental vehicles.

Work Zone

Section 257.79d defines a work zone as a portion of street or highway between a "Work Zone Begins" sign and an "End Road Work" sign.



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Section 257.603(6) explains exceptions as they apply to public highway authority vehicles (e.g. MDOT, Township, Village and City owned and/or operated vehicles), and equipment actually working on the surface of the street or highway. The exemptions in this section apply to persons, teams, motor vehicles, and other equipment while actually working on the surface of the street or highway.

Section 257.603(6) goes on to state: "Provisions of this chapter governing the size and width of vehicles do not apply to vehicles owned by public highway authorities when the vehicles are proceeding to or from work on public highways."

Section 257.603(6) does not exempt drivers and or vehicles engaged in road construction or maintenance in designated work zones from weight laws (257.722 and 257.724), spilling load (257.720(2)), speeding (257.627(9)), and seat belts (257.710(e)).

Section 257.720(8) provides an exemption to tarping in a work zone for a motor vehicle and other equipment engaged in work upon the surface of a highway or street. The tarping exemption is not extended to a vehicle traveling to and from a work zone.

Officers taking enforcement action on vehicles working in designated work zones are reminded to avoid unnecessary interruption of construction and maintenance activities.

Government Vehicles

Since most governmental commercial vehicles are used for road construction, a discussion of the exemptions that apply to government vehicles is appropriate.

- All of Act 300 applies to municipalities, the vehicles they own and their employees. Municipalities face substantial civil liability when their employees violate the law. While enforcement of municipalities is limited, officers should address observed violations to encourage voluntary compliance.
- Section 257.698(b) provides a requirement for flashing, rotating or oscillating amber lights on all state, county or municipal vehicles engaged in the removal of ice, snow or other material. This includes vehicles used to spread anti-icing agents designed to control ice and snow accumulation on the road surface.
- Local and State government vehicles must comply with Michigan weight laws.
- Section 480.15 (6) of the Motor Carrier Safety Act gives units of government, their employees and commercial motor vehicles exemptions to all of the Federal Motor Carrier Safety Regulations, except the following parts of 49 CFR:
 - Part 382 - Controlled Substance and Alcohol Use and Testing
 - Part 391 - Driver Qualifications
 - Part 392 - Driving of CMVs
 - Part 393 - Parts and Accessories

REMINDER BOX

Officers are reminded that a missing intrastate USDOT number is not to be annotated on the ASPEN inspection report or MC-9 form. The violation will be annotated on the inspection form for violations occurring after January 1, 2008.